



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 12 2004

MEMORANDUM

OFFICE OF
WATER

SUBJECT: Use of Section 106 Grant Funds to Achieve Environmental Results

FROM: *James A. Hanlon*
James A. Hanlon, Director
Office of Wastewater Management

TO: Regional Water Division Directors

Over the next several months, EPA Regions will begin working with States and Tribes to develop grant work plans or Performance Partnership Grant Agreements for FY 2005. This memorandum provides guidance for use of grant funds provided to States, Interstate Agencies, and eligible Tribes under §106 of the Clean Water Act (CWA). EPA's overall objective is to support States and Tribes in allocating Section 106 funds among those clean water program activities that best fit the needs of that State or Tribe and are most likely to attain clearly defined and measurable goals for water quality improvement.

Fiscal year 2005 is the first year in which Section 106 work plans will be developed in the context of the EPA *Strategic Plan* (<http://www.epa.gov/ocfo/plan/plan.htm>). The *Strategic Plan* defines the improvements to the quality of the Nation's waters and protection of public health that EPA, States and Tribes seek to achieve by 2008. EPA worked closely with the Environmental Council of the States (ECOS) and other organizations in developing the new *Strategic Plan* and is committed to continuing collaboration with States and Tribes to implement the *Plan*. A key step in this effort is the coordination across EPA of national guidance on core programs (e.g. air, water, waste, compliance, etc.) and the release of national guidance on a common schedule (e.g. mid-April).

In response to this Agency commitment, the Office of Water has developed draft National Water Program Guidance addressing the full range of safe drinking water goals and programs, clean water goals and programs, and goals and programs for Great Waterbodies (e.g. Chesapeake Bay, the Great Lakes, and the Gulf of Mexico). This guidance can be found at www.epa.gov/water/waterplan. A critical component of the Guidance is a series of Program Activity Measures (PAMs) that identify a minimum number of key program activities and Regional/National straw "targets" for FY 2005 that serve as a point of reference for development of FY 2005 work plans.

The President's FY 2005 budget request includes approximately \$222 million for the §106 Grant Program in support of State, Tribal, and Interstate Water Quality Programs. In negotiating grant work plans, it is expected that Regions will address the priorities identified in the National Program Guidance and relevant PAMs (attached), while recognizing a need to provide the flexibility for States, Interstates, and Tribes to focus on their most critical water quality needs. Based on a shared understanding of the environmental progress expected, Regions should work with our partners to identify the specific program

allocation of resources that support appropriate programs and activities. States and Tribes should be encouraged to tailor the allocation of resources to best fit the needs of that State or Tribe within the context of desired environmental outcomes. The Regional/National straw targets and PAMs should be used as a point of reference in working out specific State and Tribal commitments. In order to make progress in addressing priority watersheds and in implementing program efficiencies, States should also consider aligning the timing aspect of water quality standards revisions, Total Maximum Daily Load (TMDL) development, and National Pollutant Discharge Elimination System (NPDES) permit issuance. While the full array of water quality needs must be considered in the collaborative planning process, there are a few issues which may need special emphasis by the Regions throughout the negotiation process. These include:

- **Water Quality Monitoring.** The President's FY 2005 budget includes a \$17 million increase under §106 earmarked to "fund grants to States and Tribes to support adoption of new comprehensive monitoring strategies, and the development of statistically valid monitoring networks" to help target activities and determine water quality status and trends. This increase reflects a continuing commitment to strengthen State and Tribal monitoring programs to provide data necessary to support cost-effective water quality management decisions (including TMDLs and watershed plans designed to meet water quality standards) and to work in partnership with States, Territories, Tribes, and Interstate Agencies to generate a national assessment of water quality conditions. States should continue to support implementation of a statistically valid survey at the National scale in order to help determine water quality status and trends. EPA also expects that for FY 2005, States will begin implementation of comprehensive State monitoring strategies, as stated in the March 2003 *Elements of a State Water Monitoring and Assessment Guidance*.
- **Water Quality Standards.** It is EPA's objective for States and authorized Tribes to administer the water quality program consistent with the requirements of the CWA and the water quality standards regulation. EPA expects States and Tribes will enhance the quality and timeliness of their water quality standards triennial reviews so that these standards are based on sound science and EPA guidance. EPA will work with States and Tribes to reach early agreement on triennial review priorities and schedules and coordinate at critical points to enable Regional Offices to take timely action on State and Tribal water quality standards submissions. States with disapproved standards provisions should work with EPA to resolve the disapprovals promptly. Regions should also provide support for qualified Tribes to apply for authorization to administer their own water quality standards programs and to develop water quality standards in accordance with EPA's regulations. In addition, EPA expects States and Tribes to work toward adoption of nutrient criteria for their fresh waters, adoption of the 1986 bacteria criteria, and adoption of fish tissue criteria for mercury into their water quality standards.
- **Permits, Enforcement and Compliance.** Regions and States are to assure effective management of the permit program, placing an emphasis on permits that have the greatest benefit for water quality. Regions should encourage full State participation in implementing EPA's "Permitting for Environmental Results Strategy (PERS)," focusing on (1) developing and strengthening systems to ensure the integrity of the program; (2) achieving and measuring environmental results; and (3) incorporating efficiencies in permitting program operations. States are encouraged to ensure data availability by fully populating the required Water Enforcement National Data Base (WENDB) Permit Compliance System (PCS) data elements. Regions should also work with States to track and implement the program enhancements identified in the FY 2004 comprehensive assessment of NPDES program integrity and ensure that 90 percent of all NPDES permits are current and 95

percent of high priority permits are current. Other efficiency-oriented opportunities include watershed permitting, trading and promoting efforts to link development of water quality standards, TMDLs, and permits. The President's FY 2005 budget request also includes an additional \$5 million increase under §106 to support State storm water and concentrated animal feeding operations (CAFOs) permitting programs. In its separate National Program Manager (NPM) Guidance, the Office of Enforcement and Compliance Assistance (OECA) states that it plans to continue its focus on wet weather issues, including combined sewer overflows (CSOs), sanitary sewer overflows (SSOs), storm water, and CAFOs as national priorities through FY 2005. The final OECA NPM Guidance will be available with the complete Agency set at: <http://www.epa.gov/ocfo/npmguidance/index.htm>.

In addition to core water quality programs, Regions and States are reminded that these grants are a primary funding source for the States' ground water protection programs. The Agency recommends that States continue to direct §106 funding for source water protection actions to protect both ground water and surface waters used for drinking water.

In accordance with EPA Order 5700.6, issued January 8, 2004, each Region providing assistance must develop and carry out a post-award monitoring plan and conduct basic monitoring for every award. From the programmatic standpoint, this monitoring should ensure satisfaction of five core areas: (1) compliance with all programmatic terms and conditions, (2) correlation of the recipient's work plan/application and actual progress under the award, (3) availability of funds to complete the project, (4) proper management of and accounting for equipment purchased under the award, and (5) compliance with all statutory and regulatory requirements of the program. Advanced monitoring activities must be documented in the official grant file and the grantee compliance database.

I look forward to working with you to ensure that our work is fully aligned with the Agency Strategic Plan and that we achieve the greatest possible impact on our Nation's water quality through our investments in State and Tribal programs. If you have any questions about our FY 2005 priorities, the National Program Guidance or any of the program activities discussed in this memorandum, please do not hesitate to call me or Carol Crow, the National Section 106 Grant Coordinator at 202-564-0644.

Attachment

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04/12/04

Program Activity Measures (PAMs)
Related to Clean Water Act

Program Activity Measures (PAMs) are one component of the Office of Water (OW) National Program Manager (NPM) Guidance. The Guidance document identifies how the functions under OW support the accomplishment of the Agency's Strategic Plan. It includes detailed descriptions of the subobjective implementation plans which OW has developed to ensure progress in meeting the outcomes projected in the strategic plan. The PAMs are the measures OW will use to measure success and assess progress toward long-term goals. The PAMs should be considered in the context of the full OW NPM Guidance document. The internet address for this document is: <http://www.epa.gov/ocfo/npmguidance/index.htm>.

SECTION 106-RELATED PAMs

A. **Reporting Measures** (*Indicators*)

- #10 Percentage of source water areas for community water systems that have source water protection strategies in place (cumulative)
- #11 Percentage of source water areas for community water systems that have implemented some aspects of source water protection strategies (cumulative)
- #12 Number of Tribal water systems that have completed a source water assessment consistent with national guidelines.
- #13 Percentage of community water systems with source waters classified as high, moderate, or low for risk susceptibility. (Classifications to be made starting in 2004).
- #14 Percentage of community water systems for which delineated source water areas will be available in a GIS digitized

format using agreed upon data management protocols.

- #15 Each year, identify at the State level the most prevalent and threatening categories of existing/potential sources of contamination for surface and ground water for Community Water Systems.
- #21 Identify waters used by community water systems as a source of drinking water for which States/Tribes, have wherever attainable, adopted water quality standards with public water supply as a designated use, or for which States/Tribes have adopted water quality standards that provide an equivalent level of human health protection. (Note: “An equivalent level of human health protection” refers to the M.C.L., or to the section 304(a) human health criterion water plus organism value.).
- #29 Percentage of States that monitor and assess fish tissue contamination based on national guidance.
- #31 Number of States and authorized Tribes that have adopted the new fish tissue criterion for mercury.
- #37 Number of States that have adopted the Voluntary Management Guidelines for On-site/Decentralized Wastewater Treatment Systems (cumulative)
- #38 Number of States and authorized Tribes that have completed a review of water quality standards within three years of the previous triennial review under Section 303(c) of the C.A. (56 State/Territories and 22 authorized Tribes.
- #42 Cumulative number of Tribes that have water quality standards approved by EPA.
- #51 Percentage of TMDLs approved since the beginning of 2004 that were developed as part of a larger, watershed planning process that addressed restoration and protection of all waters within a watershed.
- #63 Percentage of Significant Industrial Users (SIUs) in POTWs with Pretreatment Programs and percentage of known Categorical Industrial users (CIUs.) in non-pretreatment POTWs that have control mechanisms in place that implement applicable pretreatment requirements.
- #67 Number of dischargers with permits providing for trading between the discharger and other water pollution sources and

the number of dischargers that carried out trades.

- #68 Number of watersheds in which a watershed permit(s) has been issued and the number of States issuing NPDES permits using a rotating basin process.
- #69 Percentage of NPDES program authorities where a comprehensive assessment of NPDES program integrity has been conducted (beginning in FY 04) and the percentage of assessed programs that are complying with implementation schedules for all those follow-up actions for which a schedule has been established.

B. **Measures with Targets** (*Targets*)

- #24 Percentage of surface waters that are used as a drinking water source by community water systems that have, wherever attainable, water quality standards with public water supply as a designated use or will have water quality standards that provide an equivalent level of human health protection. [Baseline T.D. in 2005 based on analysis conducted under measure #21; target to be determined based on baseline.]
- #25 Percent of surface waters that are: 1) designated for public water supply use; and 2) classified by States as highly or moderately susceptible to contamination that are monitored annually for attainment with human health water quality standards for drinking water contaminants.
- #26 Percent of surface waters that are: 1) designated for public water supply use; and 2) classified by States as highly or moderately susceptible to contamination that are monitored annually for attainment with human health water quality standards, that have a completed TMDL.
- #27 Percent of waters that are: 1) designated by States as highly vulnerable to contamination; 2) designated for public water supply use; and 3) have a completed TMDL, that are attaining human health water quality standards for drinking water contaminants.
- #28 Percentage of lake acres and river miles where fish tissue will be assessed to support waterbody-specific or regional consumption advisories, or a determination that no consumption advice is necessary. (Great Lakes Measured

separately; AK not included).

- #30 Number of tribal fish advisory programs that have adopted and applied the national fish advisory guidance to making fish advisory determinations for local waters [565 Federally recognized Tribes and Alaskan Native Villages]
- #33 Number of coastal and Great Lakes States and Territories that have adopted for coastal recreational waters, water quality criteria for E. Coli and enterococci.
- #36 Percentage CSO communities with schedules in place to implement approved Long Term Control Plans (LCTPs). (Baseline of 772 Communities w/ CSOs).
- #40 Cumulative number of States that have adopted into their water quality standards, and EPA has approved, nutrient criteria for fresh water (rivers/streams, lakes, and reservoirs).
- #41 Cumulative number of States that have adopted into their water quality programs for streams and small rivers, biological criteria designed to support determination of attainment of water quality standard use designations standards. [Note: biological criteria may include quantitative endpoints or narrative criteria with quantitative implementation procedures or translators].
- #44 Each year, the number of States and Territories that have adopted and begin implementing a comprehensive monitoring strategy [including a State approach to putting data into STORET] consistent with national guidance (i.e., March 2003 guidance describing 10 key monitoring elements).
- #45 Number of States, Interstate Agencies, and Territories that provide comprehensive integrated assessments of the condition of their waters consistent with sections 305(b) and 303(d) of the Clean Water Act and EPA's integrated assessment guidance (56 States/Territories).
- #46 Number of Tribes that currently receive EPA funding that have developed comprehensive monitoring strategies that serve all water quality management needs, and address all tribal waters, including all water body types and that provide their water quality data in a system accessible for storage in EPA's STORET.

- #51 Percentage of TMDLs approved since the beginning of 2004 that were developed as part of a larger, watershed planning process that addressed restoration and protection of all waters within a watershed.
- #52 Percentage of the TMDLs required for waters currently on the 303(d) list that are established or approved by EPA within 13 years of listing consistent with national policy. Annual targets that will be based on State or straight-line rates that ensure that the national policy is met.
- #53 Number of Tribes that currently receive EPA funding in 2004 that have participated with States and/or EPA in development of measures (e.g., TMDLs or watershed-based plans) to restore and protect watersheds with impaired waters.
- #55 Number of TMDLs approved by EPA or watershed plans to restore nutrient-impaired waters on a State impaired-waters list that contain provisions to enable trading. Provisions could include a range of practicable WLA/LA adjustments that would achieve the TMDL or incorporation of a state-approved trading framework that may be used to implement the TMDL.
- #59 Percentage of all NPDES permits that are considered current and, beginning in 2005, the percentage of high priority permits that are also current; permits for facilities in Indian Country are to meet the same standard/schedule. [targets to be reevaluated once universe of priority permits is defined in cooperation with States/Tribes].
- #60 Number of States that have updated regulations and/or statutes where necessary to reflect new CAFO requirements; number of States that have issued Statewide general permits, or otherwise substantially implemented the permit program, consistent with these new requirements.
- #61 Percentage of States/Regions that have issued NPDES general permits requiring storm water management programs for Phase II municipalities (MS4S) (estimated annual load reduction of 4.1 billion pounds of pollutants). (Note: assumes continued availability of general permits.
- #62 Percentage of States/Regions that have issued NPDES general permits requiring storm water pollution prevention plans for Phase II construction (estimated annual load reduction of 17 billion pounds of pollutants). (Note assumes continued availability of general permits).